UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA DURHAM DIVISION

In Re:

Thaddeus Dawson And Natasha Dawson

Case No. 09-80270

Chapter 13

Social Security No. xxx-xx-5366 and xxx-xx-6238 Address:2635 Ardsley Drive, Durham, NC 27704-

Debtors

MOTION TO MODIFY PLAN

NOW COME the Debtors, by and through counsel undersigned, who move, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtors show unto this Court the following:

- 1. This case was filed on February 18, 2009, with the Chapter 13 plan being subsequently confirmed on May 26, 2009.
- 2. The Debtors propose to modify the Chapter 13 plan in this case in the following respects:

From:

\$2,866.00 per month.

To:

\$2,866.00 per month through July 2010, followed thereafter by \$1,671.00

per month, starting in October 2010.

- 3. In addition, the Debtors request a "waiver" to move their Chapter 13 plan payment delinquency to the end of the Chapter 13 plan for payment. As a condition of receiving these waivers the Debtors agree that, should any subsequent payments be more than thirty (30) days delinquent within the twelve (12) months following the entry of this Order, that the Debtors' case may be dismissed without further hearing by the Court. The Debtors agree that any Order allowing such waivers shall not be *res judicata* as to timely Motions for Relief filed by secured creditors in this case.
- 4. The changed circumstances that justify the proposed modification are as follows:
 - a. The Male Debtor had oral surgery, which he both had to pay for in advance and was temporarily out of work.
 - b. The Female Debtor had surgery in April, resulting in additional medical copayments and time out of work.
 - c. The Debtors' vehicle have required more that \$1,000.00 in repairs this year.
 - d. The Chapter 13 Plan payment increased from the original \$2,604.00 a month to the current \$2,866,00.

- 5. An Amended Schedule I for the Debtors is attached hereto and is incorporated hereto by reference.
- 6. An Amended Schedule J for the Debtors is attached hereto and is incorporated by reference.
- 7. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325. This modification is feasible because of the following changes, as detailed on the attached Chapter 13 Worksheet:
 - a. Change in dividend to unsecured creditors.
 - b. Change in length of plan.
 - c. Loss of disposable income.
 - d. Filed claims different from schedules.

Appended Application for an Additional Attorney Fee

8. Counsel for the Debtors further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify.

WHEREFORE, the Debtors pray that this Court grant their Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: October 4, 2010

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Edward C. Boltz
Edward C. Boltz
North Carolina State Bar No.: 23003
6616-203 Six Forks Road
Raleigh, N.C. 27615
(919) 847-9750

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Debtors

CERTIFICATE OF SERVICE

I, Patty Cherigo, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on October 4, 2010, I served copies of the foregoing **MOTION TO MODIFY PLAN** electronically, or when unavailable, by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II Chapter 13 Trustee Michael West U.S. Bankruptcy Administrator

Thaddeus Dawson And Natasha Dawson 2635 Ardsley Drive, Durham, NC 27704-

All creditors listed on the attached Mailing Matrix at the addresses listed thereon.

/s Patty Cherigo
Patty Cherigo

Thaddeus Boyd Dawson, Jr.
Natasha Leigh Dawson

Case No.

09-80270

Debtor(s)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDE	NTS OF DEBTOR	AND SPC	DUSE		
	RELATIONSHIP(S):		GE(S):			
Married	None.		` '			
Employment:	DEBTOR			SPOUSE		
Occupation	Operator	Grants	& Cont	ract Assistant	t	
Name of Employer	Cree, Inc.	Duke U				
How long employed	11 Years	4 Years				
Address of Employer	4600 Silicon Drive	PO Box				
DISCOLOT (II .'	Durham, NC 27703	Durham	1, NC 27	7708		
INCOME: (Estimate of aver	erage or projected monthly income at time case filed)			DEBTOR		SPOUSE
1. Monunity gross wages, said	ary, and commissions (Prorate if not paid monthly)		<u>\$</u> —	3,747.91	\$ _	3,478.85
2. Estimate monthly overtim	ie		\$ <u> </u>	0.00	\$ _	0.00
3. SUBTOTAL			\$	3,747.91	\$_	3,478.85
4. LESS PAYROLL DEDUC	PAOITO					
a. Payroll taxes and so			Q	988.83	\$	004.03
b. Insurance	our recurry		ф —	85.17	\$ -	904.03 70.88
c. Union dues			<u> </u>	0.00		0.00
d. Other (Specify)	See Detailed Income Attachment		<u> </u>	339.43	\$ -	62.50
			y —	333.73	–	UZ.50
5. SUBTOTAL OF PAYRO	LL DEDUCTIONS		\$	1,413.43	\$_	1,037.41
6. TOTAL NET MONTHLY	TAKE HOME PAY		\$	2,334.48	\$_	2,441.44
7. Regular income from oper	ration of business or profession or farm (Attach detailed	d statement)	\$	0.00	\$	0.00
8. Income from real property	/		\$	0.00	\$ _	0.00
9. Interest and dividends			\$ <u> </u>	0.00	\$	0.00
10. Altmony, maintenance or dependents listed above11. Social security or govern		's use or that of	\$	0.00	\$ <u>_</u>	0.00
(Specify):	ment assistance	_	\$	0.00	\$	0.00
			\$	0.00	\$ —	0.00
Pension or retirement inc	come		\$	0.00	\$	0.00
13. Other monthly income						
(Specify):			\$	0.00	\$_	0.00
			\$	0.00	\$	0.00
14. SUBTOTAL OF LINES	7 THROUGH 13		\$	0.00	\$	0.00
15. AVERAGE MONTHLY	INCOME (Add amounts shown on lines 6 and 14)		\$	2,334.48	\$	2,441.44
6. COMBINED AVERAGE	E MONTHLY INCOME: (Combine column totals from	line 15)		\$	4,775.	.92

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

None Anticipated

Thaddeus Boyd Dawson, Jr.
In re Natasha Leigh Dawson

Case No. 09-80270

Debtor(s)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED Detailed Income Attachment

Other Payroll Deductions:

401(k) Contributions	\$	221.52	\$	0.00
401(k) Loans	\$ 	117,91	\$ -	0.00
Monthly Parking	\$	0.00	\$ -	62.50
Total Other Payroll Deductions	\$	339.43	\$	62 50

Thaddeus Boyd Dawson, Jr.

Natasha Leigh Dawson

Case No.

09-80270

Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Correxpenditures labeled "Spouse."	ıplete a separ	ate schedule of
1. Rent or home mortgage payment (include lot rented for mobile home)	\$	0.00
a. Arc real estate taxes included? Yes X No	Ψ	0.00
b. Is property insurance included? Yes X No		
2. Utilities: a. Electricity and heating fuel	\$	250.00
b. Water and sewer	\$	98.00
c. Telephone	\$	0.00
d. Other See Detailed Expense Attachment	\$	430.00
3. Home maintenance (repairs and upkeep)	\$	300.00
4. Food	\$	300.00
5. Clothing	\$	150.00
6. Laundry and dry cleaning	\$	30.00
7. Medical and dental expenses	\$	140.00
8. Transportation (not including car payments)	\$	500.00
9. Recreation, clubs and entertainment, newspapers, magazines, etc.	\$	150.00
10. Charitable contributions	\$	0.00
11. Insurance (not deducted from wages or included in home mortgage payments)		
a. Homeowner's or renter's	\$	0.00
b. Life	\$	50.27
c. Health	\$	0.00
d. Auto	\$	145.00
e. Other Wellness Plan (pet insurance)	\$	75.00
12. Taxes (not deducted from wages or included in home mortgage payments)		
(Specify) Personal Property Taxes	\$	25.00
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)		
a. Auto	_	
	\$	0.00
	\$	0.00
c. Other	\$	0.00
14. Alimony, maintenance, and support paid to others	\$	0.00
15. Payments for support of additional dependents not living at your home	\$	0.00
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$	0.00
17. Other See Detailed Expense Attachment	\$	2,132.65
18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)	\$	4,775.92
19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year	-	
following the filing of this document:		
None Anticipated		
20. STATEMENT OF MONTHLY NET INCOME	_	
a. Average monthly income from Line 15 of Schedule I	\$	4,775.92
b. Average monthly expenses from Line 18 above	\$	4,775.92
c. Monthly net income (a minus b.)	•	0.00

In re Natasha Leigh Dawson

Case No. 09-80270

Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED Detailed Expense Attachment

other cuity Expenditutes.	Other	Utility	Expenditures:
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Cablevision	\$	175.00
Cellular Phone	 \$	200.00
Trash	\$	20.00
Internet	\$	35.00
Total Other Utility Expenditures	\$	430.00

Other Expenditures:

Chapter 13 Plan Payment	\$ 1.671.00
Personal Grooming	\$ 161.65
Emergencies/Miscellaneous	 200.00
Pet Expenses	\$ 100.00
Total Other Expenditures	\$ 2,132.65

CH. 13 PLAN - DEBTS SHEET (MIDDLE DISTRICT - STEP PLAN)			Lastn	Date: 8/9/10 Lastname-SS#: Dawson-5366 MTM					
RETAIN COLLATERAL & PAY DIRECT OUTSIDE PLAN				SURRENDER COLLATERAL					
	Creditor Name	Sch D	Description of		Cro	editor Name	OLLATERAL Description of Collateral		
		#	<u> </u>	<u> </u>			Description of Constersi		
Retain									
, a									
				· · · · · · · · · · · · · · · · · · ·					
	000000000000000000000000000000000000000	>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>	900000000000000000000000000000000000000						
	ARREARAGE CLAIMS ON RETAINED COLLATERAL				REJE	CTED EXECUTORY	CONTRACTS/LEASES		
	Creditor Name	Sch D #	Arrearage Amount		Cre	editor Name	Description of Collateral		
_		-		-		· · · · · · · · · · · · · · · · · · ·			
Retain		+ +		-					
				-	33 <u> </u>	·· <u> </u>			
	BAC Home Loan		52,809						
			\$2,628	_					
. Alvers	LTD DATE DOLLARS		Managara	L					
	LTD - DOT on PRINCIPAL RES	SIDENCE /	OTHER REAL P	ROPFRTY Int.	Adequate	747			
=	Creditor Name	#	Payment	Rate	Protection Protection	Minimum Equal Payment	Description of Collateral		
Retain	BAC Home Loan	-	\$1,197	n/a	n/a	\$1,197			
		+ +		n/a n/a	n/a n/a				
3010000	CTD CPZTDEN NERTS A	000000000000000000000000000000000000000	50000000000000000000000000000000000000	820000000000000000000000000000000000000	**************************************				
	STD - SECURED DEBTS (Retain	Sch D	L& Pay FMV OFC		A J				
	Creditor Name	#	FMV	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral		
Retain		+	 .	7.00					
~		+		7.00					
				7.00					
	STD - SECURED DEBTS & 910	CLAIMS (I	Pay 100%)	700000000000	***************************************				
	Creditor Name	Sch D #	Payoff Amount	Int. Rate	Adequate	Minimum	Description of Collateral		
Ì	BB&T	 " 	\$9,971	5.25	Protection \$100	Equal Payment \$250	03 Infiniti		
Retain				7.00					
~ [7.00					
ŀ			· ·	7.00 7.00					
SUP!	TORNEY FEES (Unpaid Part)		94400000000000000000000000000000000000	7.00		#000/000000000000000000000000000000000	**************************************		
_	w Offices of John T. Oroutt, P.C.		Amount \$250		PROPOS	SED CHAPTER	13 PLAN		
SEC	URED TAXES		Secured Amount	000000		1: 1: 1: 1: 1: 1: 1: 1: 1: 1: 1: 1: 1: 1			
IR	S Tax Liens			s	1671	/month for 44	months, then		
	al Property Taxes on Retained Realt	у				,			
	SECURED PRIORITY DEBTS		Amount	s	N/A	/month for N/A	months.**		
	S Taxes								
	rsonal Property Taxes	- +		-		Definitions			
Λli	imony or Child Support Arrearage			Sch D # =]	The number of the s	secued debt as listed on f	Schedule D.		
						ed monthly 'Adequate Pr			
All 'Co-Sign Protect Debts (See***) * = Minimum of DMI x ACP, minu									
GENERAL NON-PRIORITY UNSECURED Amount to Pay" *** = Plan duration is subject to "Duration of Chapter 13 Plan" provision.									
	DMI = None(\$0)								
Oth	er Miscellaneous Provisions			1		= copyright by forth 1	Crage 4 OI 4)		
Case 09-80270 Doc 46 Filed 10/04/10 Page 8 of 8									